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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.801 OF 2005
IN
SUMMONS FOR JUDGMENT NO.266 OF 2004
IN
SUMMARY SUIT NO.359 OF 2001

The Tinplate Company of India Limited).. Plaintiffs

Versus

M/s.Modern Plast and others).. Defendants

Mr.Gaurav Joshi with Mr.Avinash Joshi and Mr.Kaushal
i/b.Mulla & Mulla & Cragie Blunt & Caroe for the
Plaintiffs.

Mr.M.L. Naik for Defendant Nos.1 to 3.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 14TH JUNE 2006

P.C.:

. The Plaintiffs have filed the present Notice of Motion for restoration of Summons for Judgment No.266 of 2004 in Summary Suit No.359 of 2001. This Summons for Judgment was dismissed on 15th February 2005 since nobody was present on behalf of the Plaintiffs. An affidavit of Mrs.Asha J. Bhuta, the Advocate who represented the Plaintiffs at that point of time, has been filed in support of the Notice of Motion. She has stated therein that she was required to attend the clinic of her Doctor on 15th February 2005 on account of a fracture sustained by her on her left hand.

2. In my view, the Plaintiffs should not be prejudiced because of the inability of its Advocate to remain present on the date when the Summons for Judgment was dismissed for default.

3. Notice of Motion allowed on the condition that the Plaintiffs pay costs of Rs.5,000/- (Rupees Five Thousand only) to the Defendants within two weeks from today. Summons for Judgment to be restored to file subject to the Plaintiffs paying the costs.

4. Notice of Motion disposed of accordingly.